

Local, State and Federal Legislative Updates

The Jacksonville City Council, Florida Legislature and U.S. Congress have been quite active in the area of workplace regulation so far this year. Many bills, covering a broad spectrum of employment issues, have been introduced and debated within these legislative bodies, achieving varying degrees of success. A few areas that are ripe for legislative action this year and in the near future are highlighted below.



Jacksonville's Human Rights Ordinance

The debate over whether to expand the City of Jacksonville's Human Rights Ordinance (HRO) to specifically include anti-discrimination protections based on sexual orientation and gender identity ended on February 14, 2017, when the Jacksonville City Council voted to expand the HRO.

Jacksonville's previous HRO covered the following protected characteristics in employment: race, color, religion, sex, national origin, age, disability and marital status. In public accommodations, the HRO prohibited discrimination based on race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status and familial status. The fair housing provisions of Jacksonville's HRO protected against discrimination on the basis of race, color, handicap, religion, sex, familial status and national origin.

The amended HRO defines "gender identity" as "the gender-related identity, appearance, or expression of a person. Gender identity may be demonstrated by a person's consistent and uniform assertion of a particular gender identity, appearance or expression, or by any other evidence that a person's gender identity is sincerely held, provided however, that gender identity shall not be asserted for any improper, illegal or criminal purpose."

"Sexual orientation" is defined in the HRO as "an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual."

The HRO exempts religious organizations as well as businesses with less than 50 employees from complying with the amendments regarding gender identity and sexual orientation.

Expansion of anti-discrimination laws to expressly include sexual orientation and gender identity provides new legal protections to classes of employees who are not covered by the clear terms of existing state and federal laws. The amended HRO makes it easier to state claims of discrimination and harassment based on sexual orientation or gender identity. An uptick in complaints of discrimination and harassment based on these newly protected classes is likely to occur. It would be a good business practice to revise employment policies and procedures, and conduct manager and supervisor training on the recently expanded Jacksonville HRO.

Florida Legislature Continues Discussion in Key Areas

The Florida Legislature has joined the national debate by introducing bills that have significant impacts on pay, hiring, benefits and anti-discrimination laws. While no new workplace laws have been enacted so far this year, the Florida Legislature continues to debate and discuss several important employment-related bills. A few key areas to watch over the next few years are:

- Increasing Florida's Minimum Wage: Bills were introduced in both the House and Senate that would increase Florida's minimum wage by \$1 or more over several years, up to \$15 per hour.
- Ban-the-Box: The Florida Legislature continues to discuss whether a "ban-the-box" law makes sense for Florida employers and, if so, which employers should be exempt and at what point in the hiring process employers should be allowed to obtain an applicant's criminal history.
- Anti-Discrimination: Proposed amendments to the Florida Civil Rights Act to add sexual orientation and gender identity as protected characteristics have been considered by both sides of the Florida Legislature.

Additionally, the Florida Legislature might take action on workers' compensation to address several Florida Supreme Court decisions released last year that expanded wage replacement benefits and the recovery of attorneys' fees. These Florida Supreme Court decisions are widely viewed as being responsible for significantly increasing the cost of workers' compensation insurance across the State of Florida.

At the Federal Level

The administration under President Trump promised aggressive action. A few subjects of the administration's focus are of particular importance to employers, including healthcare, immigration, tax reform, and employee leave and workplace flexibility. It is too early to tell what may ultimately be achieved on these issues.

In an effort to shape the conversation, SHRM has taken a leadership role in preparing proposed legislation on paid leave and flexible work options. It is anticipated that the legislation will be introduced in Congress in the near future. Details of the proposed bill have not yet been released. However, previews of the SHRM-developed legislation indicate that employers that choose to opt in to the proposal by offering a minimum threshold of paid leave and a flexible work option to all employees will automatically satisfy all state and local paid leave requirements. As SHRM press releases state, by amending the Employee Retirement Income Security Act (ERISA), the proposed legislation would provide participating employers flexibility and predictability in designing workplace flexibility offerings.

HR professionals should continue to monitor these developments and evaluate how new and proposed legislation will impact their businesses.